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## Are We Violating the Human Rights of the World's Poor? Responses to Four Critics; Appendix D: Comments by Ann Cudd

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## Appendix D:

### Comments by Ann Cudd<sup>1</sup>

In this paper, Thomas Pogge aims to extend his argument for the claim that we (relatively affluent persons) have a negative duty to do our part to end global poverty, in order to show that by not discharging this negative duty we are violating the human rights of the poor. Many, including Pogge, have argued for a duty to the poor. His distinctive contribution to the literature is to argue that there is not only an open-ended positive duty to improve the global institutional order, nor that there is simply a collective duty for some collective bodies to improve the global institutional order. As contrasted with Peter Singer's argument for a positive duty to aid the poor,<sup>2</sup> Pogge emphasizes the negative duty aspect of his argument using the active language of violating the human rights of the poor. Like Singer, Pogge attempts to make the argument that each individual has a negative duty by emphasizing that this negative duty violation is something we do as individual actors. His strong claim is that "human rights violations are crimes actively committed by particular human agents," and that we are committing human rights violations by supporting institutions that continue to reproduce extreme poverty.<sup>3</sup>

Pogge distinguishes between two kinds of human rights violations: interactional, where agents do things that avoidably deprive human beings of secure access to their rights, and institutional, where agents design and impose institutional arrangements that deprive them of that access. It is not news that there are individuals who violate the human rights of the poor in an interactional sense; there are numerous dictators who have done this by deploying their armies to block foreign aid from reaching the poor, for example. Pogge focuses, in this paper, on institutional violations, since that implicates all of "us" – average citizens of relatively stable, wealthy countries. And yet he argues that we each are implicated *as individuals* in institutional violations of human rights. This is a bold, challenging claim; more personally challenging than either Singer's arguments for positive duties that individuals have to the poor or Pogge's institutional-based arguments for our collective duties to the poor.

Pogge cites the Universal Declaration of Human Rights as evidence that there is wide acceptance of human rights including the right to secure

1. University Distinguished Professor of Philosophy at the University of Kansas.

2. Peter Singer, *Famine, Affluence, and Morality*, 1 PHIL. & PUB. AFF. 229-43 (1972).

3. Thomas Pogge, *Are We Violating the Human Rights of the World's Poor?*, 14:2 YALE HUM. RTS. & DEV. L.J., 1, 18 (2011).

access to the means of basic subsistence, and he cites World Bank statistics to show that this right is not fulfilled for over a billion human beings. Although there are interactional causes for some severe poverty, Pogge argues that it is primarily caused by the institutional background of the global economic system. He acknowledges the gap between a right being unfulfilled and there being a responsibility to fulfill that right on the part of someone, and sets out to bridge that gap. Institutional human rights violations involve non-fulfillment of human rights combined with a certain causal responsibility for this non-fulfillment. Pogge aims to show that we – each of us – are causally responsible for this non-fulfillment, and hence are actively committing this crime against humanity.

Our causal responsibility stems from the fact that we are complicit in the global institutional order that creates severe poverty or allows it to continue by creating obstacles to the economic development of the poor. Pogge claims that we are complicit because we authorize the global order through our citizenship in countries that could change the order in a way that would dismantle these obstacles and end global poverty. Such obstacles are unjust. Not only do we have a duty to construct just institutions, we also have a negative duty not to collaborate in the imposition of unjust institutions. We violate the human rights of the poor when we impose unjust institutions on them. In this way we are not just uninvolved bystanders who could rescue the poor, but we are complicit in the construction and maintenance of the very conditions that create poverty. We must therefore desist. Furthermore, because each of us (the relatively affluent in relatively affluent countries) is complicit in the construction and maintenance of these conditions, we each have a duty to repair if we cannot individually dismantle the poverty creating conditions.

Pogge identifies six specific ways in which the global order is harmful or unfair to the poor: (1) It permits unjust rulers to sell the natural resources of their countries; (2) It permits banks in affluent countries to lend money to such rulers and then compels people to repay even after the ruler is gone; (3) Affluent countries facilitate embezzlement of funds by public officials in less developed countries by allowing their banks to accept these funds; (4) Affluent countries facilitate tax evasion in less developed countries through lax accounting standards for multinational corporations; (5) Affluent countries account for disproportionate share of global pollution; (6) Affluent countries erect trade barriers which poor countries cannot match, and destroy more jobs in less developed countries. These are specific ways that we cause harm and violate the human rights of the poor. Thus, we must desist from causing harm in these ways.

In my comments I will briefly discuss some of these ways in which Pogge claims we collectively violate the human rights of the poor and then ask whether he succeeds in showing that we each have a negative duty as an individual in these respects. Then I will discuss the particular ways Pogge thinks we can discharge our individual duties with regard to our violations of the human rights of the poor. I raise three kinds of problems for

Pogge's argument: epistemic problems, a feasibility problem, and collectivity problems.

The first three ways the global order harms the poor involve our recognition of ruling elites of poor countries as the legitimate rulers, which allows them to sell natural resources or take loans on behalf of the country. Pogge argues that purchasing natural resources from illegitimate rulers, or giving loans to such rulers, and allowing them to deposit funds from these activities into secure bank accounts are ways in which we are complicit with the human rights violations attendant on severe poverty. Therefore, we should prohibit such activities by private businesses or banks and prohibit international institutions from providing them with loans.

Although it is clear in the case of some horrendous dictators that no business should be done with *them*, there are line-drawing problems with the general proscription not to trade with dictators or allow them access to international banking. Is the criterion for such shunning set by the specific project (in the case of loans) or by the general behavior of the ruler? If the latter, then how bad does the dictator need to be? Where do we draw the line between say governments that come into power through thoroughly unfair elections and those that do so through one-party rule? Furthermore, we might end up disallowing projects that are actually helpful to the population, since even dictators sometimes do some good for their people. If we choose the former, how bad does the project have to be? How do we draw a line between projects that are motivated by greed or vanity and those that are simply unwise? Making these judgments would seriously encroach on the ability of a people to collectively self-govern, and would open us to charges of elitism or worse. Because the answers to these questions are not clear, there is an epistemic problem with knowing precisely what we should do.

Regarding the fifth point, pollution by affluent countries affects the global poor insofar as it creates global climate changes that result in disastrous weather events and rising sea levels. But much pollution is created within poor countries by natural resource extraction and factories that produce goods that are sold to the affluent. The difficulty with reducing it is that economic growth almost inevitably leads to greater pollution, and the economic growth of poor countries is necessary for a long-term solution to global poverty.<sup>4</sup> What is needed is more growth by poor countries and less by affluent ones. But how to bring that about is very unclear. Furthermore, much of the problem is how that growth is distributed within poor countries. It is difficult to see how effective growth could be engineered economically and politically. So we cannot hold individuals responsible for finding the solution in order to call on their governments to bring it about. Again there is a severe epistemic problem for individuals to find out what should be done to avoid violating the human rights of the poor.

Finally, Pogge is clearly right that trade protectionism by affluent coun-

4. The shocking growth of pollution in China to accompany its economic growth is just a recent example of this phenomenon.

tries is wrong and should be ended. Poor countries should be given more latitude to protect their industries. But the combination of trade protectionism and liberalism that will best serve the poor is less clear.

In general, I agree with Pogge's points about how relatively affluent countries are violating the human rights of the poor. I think that there are some questions about how exactly we should change the global order to stop violating these rights. (In this way, the case of ending global poverty is quite different from ending slavery, an analogy that Pogge presses.) Knowing which action to perform at the individual level depends on knowing what collective action will result in avoiding violating the human rights of the poor. But as we have seen, it is often unclear what exactly to do, and some individual and collective actions might actually create more harm than good.

There is also a feasibility problem. Pogge's argument depends on the claim that there is a feasible alternative system that would secure the human rights of the poor. If there were no alternative, then there would be no duty to do otherwise.<sup>5</sup> Pogge responds that even if there is not a feasible alternative system that would solve the problem of poverty, we can at least say that if we stop doing the six things he lists, then we would not be violating the human rights of the poor even if poverty remains. Just as slavery should be ended even if the freed slaves end up being equally poor and miserable, so our collective violations of the human rights of the poor in these six ways should end even if doing so does not end poverty. A closer analogy would be if slavery were inevitable even if I quit being a slaveholder. It is still clear that I have a duty not to enslave, but it is only a question of who has the dirty hands.

The most difficult part of Pogge's argument to follow concerns the claim that individuals are obligated to do particular things either to desist from these collective violations of human rights or to end global poverty. There is a gap between what Pogge thinks we must do to discharge our negative duty as an individual and what it takes to secure the human rights of the poor. The gap can be seen when one considers that acting as an individual, no matter how ethically or charitably, cannot guarantee that the human rights of the poor will be secure. This is what we might call the collectivity problem, which is that the only way to change the global order is to act collectively, and that is not guaranteed by individuals' actions.

In each of the six ways Pogge lists that we are violating the human rights of the poor, we are doing so collectively, through our governments and the supranational organizations that we have collectively erected. No single individual (unless we are those particular individuals who have special roles in those institutions) can prevent a governments from allowing dictators to sell their countries' natural resources, set banking regulations so that dictators cannot harbor ill-gotten gains or so that companies cannot

5. See Mathias Risse, *Do We Owe the Global Poor Assistance or Rectification?*, 19 ETHICS & INT'L AFF. 9 (2005); Thomas Pogge, *Severe Poverty as a Violation of Negative Duties*, 19 ETHICS & INT'L AFF. 55 (2005).

evade taxes, or set the conditions on international loans. Nor can that individual (unless she happen to be the owner or chief executive officer or board member of a large company) affect the level of global pollution. Most individuals can have no effect whatsoever on any of these things. If I were the last individual needed to join a political effort to change laws, I could have an effect. But it is rare for any one of us to be that person, and even more rare for us to know that we are. But this is what it would take to argue that I have a duty to act as an individual to desist from one of these six ways that we collectively violate the human rights of the poor.

Likewise, no individual can directly end global poverty. Perhaps there are a few individuals who could stall poverty for a short time by spending all of their wealth on feeding, buying medicines, and building shelter and medical facilities, but this would be a temporary fix. Thus, again we need to engage in collective action to solve the problem. Pogge argues that this need for collective action does not mean that we have only collective duties, which can only be discharged collectively. If we had only a collective duty, then we would need others to perform in order for each of us to have the duty to also perform. He claims that each one of us has a duty to do our own part even if others do not do theirs.

Even if an individual is obligated to act to end poverty despite the inability of the individual to guarantee that by so acting poverty will be significantly diminished, it is not clear what the individual is obligated to do. Pogge thinks individuals can discharge their duties in two ways. We can join an effective political action to change global institutions, and we can contribute a portion of our wealth to the effort. He mentions but dismisses massive development aid, since that is not cost effective or sustainable. It is better to collectively act to change the institutional order so that it does not pose an obstacle to the ability of the poor to develop their economies enough to rise out of poverty. Pogge also dismisses the option of emigrating to a poor country to divest oneself of the duty to help the poor. The better option is to pay compensation to support "effective international agents or non-governmental organizations," in order to reduce the human rights deficits. He offers a way to calculate the compensation that a relatively affluent person owes, but this solution again falls prey to the collectivity problem. Such a contribution cannot make any noticeable difference to reducing global poverty unless others do their part. If the others do not do their part, then one's contribution is no more a reparation or a desisting from violating the rights of the poor than doing nothing. Now, one might respond that contributing to Oxfam or some other effective global charity reduces some of the misery for some of the global poor, and if this is the best one can do, it is better than nothing. But this kind of charitable giving, like development aid (only worse, since it is less) is not going to change the global order. If this is the negative duty we turn out to have, the argument ends with a less effective contribution than we might have hoped for.

In conclusion, Pogge offers an aggressive, challenging position concerning our duty to the world's poor. In order not to violate their rights, we -

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each of us relatively affluent persons – must act. We not only have a collective duty that can only be discharged in a collective, we also have an individual duty to inspire collective action or at minimum to give a sum of our money to an effective charity to combat poverty. I have raised three potential problems for his view. First, there are epistemic problems with knowing exactly what is to be done in order to do the best we can to eradicate poverty. Second there is a question about whether a feasible alternative global order exists, though this does not take away from the point that feasible alternative or no, we must avoid actively harming the rights of the poor. Third, and most significantly, there are collectivity problems with claiming that one has a negative duty to do something that may be completely ineffective in stopping the rights violations that gave rise to the negative duty. In the end, it seems, we are left with an individual duty that will not set us on a path to ending global poverty.